

Town of Uxbridge  
Conservation Commission  
21 South Main Street  
Uxbridge, MA 01569  
508-278-8600 x 2020



**Conservation Commission Meeting Minutes  
December 27, 2021**

FILED IN THE TOWN CLERK  
2022 FEB 20 AM 11:12

**Present:** Jeff Shaw, Russell Holden, Paul Balutis, Jessica Cleary, Lauren Steele, & Philip Bertuglia (in person), Tomas Etzold (remote)

**Roll Call:** Cleary – here, Holden – here, Balutis – here, Bertuglia – here, Steele – here, Shaw – here, Etzold – here

**CALL TO ORDER:**

It being approximately 6:30 pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Chairperson followed by the pledge of allegiance.

**COC REQUESTS**

**1. 434 Elmwood Avenue (Lot 2) DEP #312-1128 (00:02:00 – 00:14:21)**

**Discussion:** Norm Hill, Land Planning, Inc. attended the meeting on behalf of the applicant Ron Knapik. Mr. Hill reported that he inspected the property and the front portion of the site is complete and fully stabilized. This is the only area within the 100' buffer zone. It was explained that the Order of Conditions contained a special condition that a Conservation Restriction be placed on the remainder of the property. There seemed to be some confusion (conservation easement vs conservation restriction) and members provided more detail about the requirements of a restriction.

**Motion:** Mr. Holden made a motion to deny the Certificate of Compliance Request while the applicant moves forward with the Conservation Restriction. Ms. Steele seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye, Etzold – aye)

**2. 256 Chocolog Road DEP #312-1090 (00:14:21 – 00:20:43)**

**Discussion:** Commissioners received photographs, an as-built and Mr. Shaw and Mr. Bertuglia visited the site. Not a very steep site and there is a fairly large area between the work and the resource area. Jim Smith, the Applicant, attended and answered questions.

**Motion:** Mr. Bertuglia made a motion to approve the Certificate of Compliance request for DEP #312-1090, 256 Chocolog Road. Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye, Etzold – aye)

**PUBLIC HEARINGS**

**1. Notice of Intent (NOI) DEP #312-1130 90 Elmdale Road (Map 31 Parcel 185) (00:20:43 – 00:38:43)**

**Applicant:** Jonathan Whipple, Webster, MA

**Representative:** Insite Engineering Services, LLC, North Smithfield, RI 02896

**Project Description:** The construction of a single-family home with driveway, septic system, and private well within a Riverfront area. *Public hearing opened 10/4/21.*

**Discussion:** Ed Avizinis, Insite Engineering, attended on behalf of the applicant. DEP comments were related to a portion of the driveway being in the 100-year flood plain. In response, the applicant raised that section of the driveway out of the flood plain and proposed compensatory flood storage. Members reviewed the revised plans and the proposed storage area. The BLSF has to be replaced in kind (at the same elevation). There was confirmation from the owner that there are no plans to change the stonewall that appears to be on the property line close the driveway.

**Motion:** Mr. Holden made a motion to approve DEP #312-1030 for 90 Elmdale Road and to issue an Order of Conditions with the Uxbridge Standard Special Conditions. Ms. Steele seconded, and the motion passed unanimously by roll call vote of 5-0-1 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye, Etzold – abstain)

**Motion:** Ms. Steele made a motion to close the public hearing for DEP #312-1030 for 90 Elmdale Road. Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye)

**2. Notice of Intent (NOI) DEP #312-1129 35 Commerce Drive (Map 40 Parcel 3855) (00:38:44 – 00:1:02:30)**

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**Applicant:** Jay Lemire, Unilock, Uxbridge MA

**Representative:** Farland Corporation, Dartmouth MA

**Project Description:** The expansion of their complex with a 44,700+/- S.F. building and necessary site improvements within the Buffer Zone of a Bordering Vegetated Wetland. *Public hearing opened 10/18/21.*

**Discussion:** Jay Lemire, Unilock, and Stevie Carvahallo, Farland Corporation attended the meeting. The construction sequence was updated and the letter from Natural Heritage were submitted to the commission after the last meeting. NHESP determined the project would not result in a take of species and no requirements were imposed.

Mr. Holden visited the site on 12/27/21 and reported and had photographs of erosion control in place and trees removed (on the slope) beyond the limit of work, prior to the issuance of an Order of Conditions. This puts the site in a state of violation. Mr. Lemire responded that the only trees removed were 2 months ago during the excavation for the basin. They thought the erosion controls had to be installed for inspection so they installed them prior to the 12/6/21 meeting. After further discussion it was determined that approximately 12 saplings were removed during the installation of the erosion controls. Everyone agreed an EO w/ compensatory plantings would be a way to address the violation and move forward with the NOI application.

**Motion:** Mr. Holden made a motion to issue an Enforcement Order that calls for the compensation of 12 species of the trees removed outside the Limit of Disturbance and a planting plan be submitted within 90 days of the issuance of this Order. Ms. Steele seconded, and the motion passed unanimously by vote of 6-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – ay).

There was further discussion about the location of the construction fence and the construction sequence. Members agreed on an additional condition that any machinery used to remove trees operates from above the slope.

No members of the public offered any comments.

**Motion:** Ms. Steele made a motion to close the public hearing for DEP #312-1029 for 35 Commerce Drive. Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye, Etzold – aye).

**Motion:** Ms. Steele made a motion to approve DEP #312-1029 for 35 Commerce Drive and to issue an Order of Conditions with the Uxbridge Standard Special Conditions with the following additional Condition:

- The Applicant shall adhere to the approved Construction Sequence prepared by RP Masiello, dated December 7, 2021 with the following addition to item #4: The tree removal machinery shall operate from above the slope. (agreed upon by the Applicant and the Uxbridge Conservation Commission members during the 12/27/21 meeting).

Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye)

### 3. Notice of Intent (NOI) DEP #312-11XX 130 Aldrich Street (Map 45 Parcel 1764) (01:03:30 – 01:09:08)

**Applicant:** George Pendleton, Uxbridge MA

**Representative:** Hawk Consulting, Inc., Douglas MA

**Project Description:** Replacement of an existing failed septic system within the Buffer Zone of a Bordering Vegetated Wetland. *Public Hearing Opened 12/6/21.*

**Discussion:** Mr. Pendleton attended the meeting. He was under the impression that the DEP number had been assigned. After some investigation, it was determined that the DEP number has been assigned to the incorrect town (Douglas 143-1034). Mr. Pendleton agreed to work with his engineer to try resolve the issue.

**Motion:** Mr. Balutis made a motion to continue the public hearing for 130 Aldrich Street to the January 3, 2022. Mr. Holden seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye)

### 4. Notice of Intent (NOI) DEP #312-1131 Lot 9B Crownshield Ave (Map 29 Parcel 3131) (01:09:08 – 01:28:16)

**Applicant:** Uxbridge Multi Family Realty LLC, Milford MA

**Representative:** Guerriere and Halnon, Franklin, MA

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**Project Description:** The construction of an apartment building with 2 single family units, driveway, utilities and associated grading. Portions of the proposed work will occur within the 100' Buffer Zone of a Bordering Vegetated Wetland. *Public hearing opened 12/6/21.*

*\* Ms. Steele recused herself from the public hearing because she is an abutter.*

**Discussion:** Ms. Mainini, Guerriere and Halnon, attended on behalf of the applicant. 3 test pits were completed as requested during the last hearing. No groundwater indicators in 1 and 2 (directly behind the 2 homes). The proposed swale has been added to the plan (running between the houses on 9B and the Queen of Roses) – to mitigate any flooding caused by the construction of the homes). Ms. Mainini answered questions about the recharge unit the soils on site and the swale.

Mr. Shaw was on site for the soil testing and did not have any concerns. No members of the public offered any comments.

**Motion:** Mr. Holden made a motion to approve DEP #312-1031 for 9B Crownshield Avenue and to issue an Order of Conditions with the Uxbridge Standard Special Conditions given the new revised plans. Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 4-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Shaw – aye)

### 5. Notice of Intent (NOI) DEP #312-11XX Douglas Street (Route 16) Right of Way & Route 146 Ramps (01:28:16 – 01:51:56)

**Applicant:** Campanelli VI LLC, Braintree MA

**Representative:** Kelly Engineering Group, Inc, Braintree MA

**Project Description:** Right of Way Work at the intersection of Worcester Providence Highway (Route 146) and Douglas Street (Route 16). *Public hearing opened 12/6/21.*

**Discussion:** David Mackwell, Kelly Engineering and Dan Mills, Traffic Engineer, John Rockwood, Ecotec all attended remotely. No DEP number yet but they wanted to ensure there wasn't anything else the Commission wanted to address. Mr. Mackwell reviewed his memo

addressing the following concerns from the previous meeting:

- *Commissioner Holden questioned the cold spring brook in relation to the rivers protection act.*
  - *Wetland Resource Evaluation was provided with Stream Stats map - cold spring brook in this area is an intermittent stream and not riverfront area*
- *There was a discussion on third party review.*
  - *They expect the order will require the applicant's wetland scientist to be present and oversee all work related to filling and replication wetlands.*
  - *All Massworks projects have a resident engineer that will oversee all work. The resident engineer will be hired by the town of Uxbridge and is responsible to ensure that all work is performed by the contractor in accordance with the contract with the town/state. The Order of Conditions will be part of the contract.*
  - *They suggest that a condition be placed within the order that resident engineer is present at the kick off meeting with the Conservation Commission.*

Members requested resource & compensatory areas be marked so they can be viewed in person during a site walk. The applicant agreed and a site visit was scheduled for January 2, 2022. Members also requested evidence that the Town DPW is aware and on board with the project.

**Motion:** Mr. Balutis made a motion to continue the public hearing for Douglas Street and 146 Ramp right of way work. Mr. Holden seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Balutis – aye, Bertuglia – aye, Cleary – aye, Holden – aye, Steele – aye, Shaw – aye, Etzold – aye)

### REPORTED/ONGOING VIOLATIONS (01:51:57 – 03:20:35)

1. DEP# 312-1086 — Tea Party Drive (Mr. Bertuglia recused himself from discussion)
  - Ms. Mainini, Guerriere and Halnon attended in person and Angela Conforti, the Applicant's counsel, attended remotely.
  - Ms. Mainini passed out and provided an overview of a Memorandum of Agreement that Fafard agreed to and the Uxbridge Planning Board voted to accept. Essentially, the request is for the Commission to release and replace the Enforcement Order with the Agreement.
  - The Agreement puts future construction in the hands of Graves who would ensure the work is being done in compliance w/ the Agreement. They would not be able to start any new foundations until the work outlined in the Dec. 3, 2021 memo is complete which Ms. Mainini reports almost all of it is complete. The Agreement allows for 4 houses on a sliding scale – somewhat different than the Commission's expectation of only 4 being worked on at any given time.

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They are currently preparing a subdivision modification application and stormwater permit application for the Planning Board which will define the changes to the storm water basin.

- The Agreement doesn't nullify the Commission's ability to issue enforcement or whatever. The Agreement provides more control on behalf of the town than either board has solely and also allows Graves to suggest stop work also. Gives the town the ability to be more proactive. Fafard agreed because they want to move forward.
- There was discussion about the curtain drain. I was replaced because it was found to be in poor condition (full of silt). The Commission would like to know how deep the drain was put it – it was more appropriately installed in stone but not measured.
- Members were not comfortable leaving it all up to Graves with what they've seen at the site. The Agreement is a good start but they would need more detail (what does graves consider stabilized, what is being inspected, what is the frequency of inspections and reporting).
- Everyone agreed to proceed as planned prior to the agreement which was for G&H to propose 4 lots that the Commission would consider exempting from the EO. Ms. Mainini proposed lots L3, G2, G3, G4. The G units are in a very gravelly area, it has erosion control but not enough silt to create a problem. There is also a berm with check dams one one side and on Crownshield there are still silt sacks – the area is well protected. Ms. Mainini also reviewed a plan w/ the proposed progression of foundation installations.
- **Motion:** Mr. Holden made a motion to release units L3, G3, G2 and G4 but to leave all other provisions of the Enforcement Order in place. Mr. Balutis seconded the motion. **Motion withdrawn after discussion.**
  - **Discussion:** Mike Breciani, 49 Tea Party, called in with concerns about the conditions of the back yards. Ms. Mainini explained his lot will be fixed as part of the grading improvements this week. She recommended having Graves verify the grading changes prior to the release of the lots. Everyone agreed to wait a week until the work is complete before releasing the lots.
  - There are 22 lots designed and ready for building permits. There is another area to be developed but that still requires subdivision approval.

*\*Mr. Bertuglia returned to the meeting.*

2. DEP# 312-1013 — 255 Chocolog Road, Cobblers Knoll Subdivision
  - The site was discussed during the recent Planning Board meeting. Someone is coming in to take the project on. Everyone agreed to table discussion for t
3. DEP# 312-1104 — 515 Douglas Street
  - Although not all members were able to walk the site and they discussed whether they felt comfortable approving it according to Art Allen's plan and direction during work. There was a review of Mr. Allen's final report dated 11/22/21. Because there was still an open item (removal of the vacuum trucks and piping and oversite of seeding), members agreed to hold off closing until they could confirm this has been complete.
4. Commerce Drive Well Site – request to close EO
  - It has been confirmed that the DEP fine was paid in 2018. Members still would like confirmation that the plantings were completed as specified and have taken. Vernal pool certification materials were submitted but more information was needed to complete. The following 2 springs were dry and evidence was not available to be collected. Everyone agreed take original planting plan and visit the site on 1/2/21 to try to confirm the plantings.

### WETLAND UPDATES AND ISSUES (03:20:25 – 03:33:25)

1. Review of Conservation Restrictions for portions of 515 Douglas Street and Lot 5 High Street related to the 515 Douglas Street/Amazon Project DEP#312-1104
  - Members discussed the locations of the CR sites and that they will pretty much be used for passive conservation, no hiking, biking, etc. MR. Holden recommended members walk the areas and encouraging the applicant to perform the baseline study and survey/mark the area. There was a brief review of the restriction documents submitted. It was pointed out that a Conservation Management Plan was also mentioned but members were not sure what document they are referring to. Mr. Shaw agreed to reach out to the applicant.
2. Solitude Contract for Weed Abatement at Pout Pond
  - Members agreed to check for 2021 end of season report. Treatments were required last year but minimal.
3. Discussion of site compliance regarding active & expired Orders of Conditions

### PROCESSING

1. Meeting Minutes Review 12/6/21
  - 12/6/21 passed over to the next meeting for more time to review.

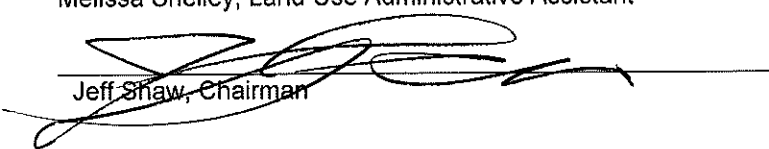
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- Mr. Holden pointed out missing information on the posted 11/15/21 minutes – they should be revised and resubmitted.

**ADJOURNMENT-NEXT MEETING SCHEDULED FOR Monday, January 3, 2021**

**Motion:** Ms. Cleary moved to adjourn the 12/27/21 meeting of the Conservation Commission. Mr. Balutis seconded, and the motion passed unanimously by vote of 5-0-0.

Respectfully Submitted,  
Melissa Shelley, Land Use Administrative Assistant

  
Jeff Shaw, Chairman